

WRITTEN TESTIMONY OF HON. WILLIAM SCHMA, RETIRED JUDGE
KALAMAZOO COUNTY CIRCUIT COURT
MICHIGAN STATE HOUSE JUDICIARY COMMITTEE
REPRESENTATIVE MARK MEADOWS, CHAIRMAN

December 14, 2009

Chairman Meadows and the House Judiciary Committee, thank you for the opportunity to submit testimony in support of public defense reform legislation. Change in the way Michigan delivers public defense services is long overdue and I hope you will make this a priority.

My name is William Schma. Now retired, I was a judge since 1987 in Kalamazoo County Circuit Court. I am a founding member of the National Association of Drug Court Professionals and the past president of the Michigan Association of Drug Court Professionals. In my years on the bench, I became increasingly aware of the issues within public defense. You might be aware that in the 1990s, I spearheaded the effort to bring drug courts to Michigan, starting with an experimental Women's Drug Treatment Court in Kalamazoo. My experiences throughout the years showed me the clear need for effective public defense.

I firmly believe that Michigan needs a better, working system for upholding the constitutional right to counsel. What we have currently is not effective, not efficient, and not fair. It should not matter what kind of socioeconomic status you have or which county you are charged in – everyone deserves to be given the effective defense representation promised in our United States and Michigan constitutions.

As you know, Michigan was found in the recent National Legal Aid and Defender Association report to be 44th in the country for per capita spending on public defense. Yet we are among the highest in the country when it comes to spending on corrections.

I firmly believe that an effective public defense system would thwart cost inefficiencies and would also generate a number of cost savings – in wrongful conviction lawsuits, appeals, and corrections costs for incorrect or inappropriate sentences. The research paper published by Dawn Van Hoek at the State Appellate Defender Office details these cost savings.

A working justice system requires effective judges, effective prosecution, and importantly, effective defense. Defense attorneys need a system with adequate resources – such as access to experts and investigators, time, and standards regarding performance, workload and training, to really turn the wheels of justice.

A working public defense system would more effectively spend taxpayer dollars. Defense attorneys are the first point of contact for many people in the justice system. If an attorney has the training and capacity to identify problems like mental illness or substance abuse problems, then the individual could be given the chance they deserve to go through more cost effective programs like substance abuse treatment, rather than simply being incarcerated – the more expensive option.

My research reveals, and both the Michigan and National Association of Drug Court Professionals reiterate, that upwards of 80% of incarcerated individuals has a history of substance abuse. Can you imagine the amount of money saved when we direct individuals to alternatives that truly work to address the problem in a person's life, rather than throwing them away to jail or prison? Studies have shown that through programs like drug courts, we save millions of dollars.

The cost of serving one individual in a drug court can be around \$3800 per year. Compared to the more than \$30,000 that would otherwise be spent incarcerating one individual in prison for one year, this is the much more effective option. However, defense attorneys need to be able to identify a client's needs and know how to advocate for an individual to go through a certain program. A client needs the guiding hand of counsel to walk through the law, the available options, and what to consider. Without a system that provides the necessary and relevant training, defense attorneys may not be able to serve this function.

I urge you to support legislation that would provide adequate state funding for public defense and create a system that meets and enforces the *Eleven Principles of a Public Defense Delivery System*.

Thank you for the opportunity to submit this testimony.

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